



# Report to the First Secretary of State

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## THE TOWN AND COUNTRY PLANNING ACT 1990

### HERTSMERE BOROUGH COUNCIL

**THE APPEAL IS MADE BY MR P EGAN, MICHAEL SLATTERY, KATHLEEN  
SLATTERY, ANN O'BRIEN, NORA GAMMELL, MARGARET QUILLIGAN,  
NORA GORE, BRIDGET GAMMELL, MARGARET EGAN, BRIDGET FLYNN,  
MARGARET GAMMELL AND MARGARET SLATTERY**

AT

**TWIN OAKS CARAVAN PARK, SUMMERSWOOD LANE, RIDGE, HERTS**

Inquiry opened on 01 October 2003

Twin Oaks Caravan Park, Summerswood Lane, Ridge, Herts

File Ref: APP/N1920/A/03/1116117

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**Twin Oaks Caravan Park, Summerswood Lane, Ridge, Herts**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr P Egan, Michael Slattery, Kathleen Slattery, Ann O'Brien, Nora Gammell, Margaret Quilligan, Nora Gore, Bridget Gammell, Margaret Egan, Bridget Flynn, Margaret Gammell and Margaret Slattery against the decision of Hertsmere Borough Council.
- The application (Ref. TP/2002/1115), dated 2 May 2002, was refused by notice dated 3 April 2003.
- The development proposed is a 12 pitch private gypsy site and vehicular access to Summerswood Lane.

**Summary of Recommendation: The application be refused.**

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**Procedural Matters**

1. The inquiry sat on the 1 and 2 October and 24 and 25 November 2003. An accompanied site visit was made on the 25 November 2003.
2. The appeal was recovered by the First Secretary of State because the appeal relates to proposals for significant development in the Green Belt.

*Appeal site*

3. The red line on the location plan<sup>1</sup> is incorrectly drawn, and shows a substantially larger site than is within the appellants' ownership. This was an error and the appellants say that the appeal site should coincide with the extent of the land in their ownership; a revised location plan was submitted<sup>2</sup> at the inquiry. This area of land does not coincide with the 12 pitches shown on the block plan<sup>3</sup>, which has a dark line around its perimeter but includes some additional land beyond. It is larger than 'Ridge 1' shown in Doc 6 appendix 1 and what was identified as the appeal site in Doc 6 appendix 3.
4. The appellants consider, because this would be a substantial reduction in the area of the site in relation to that shown on the application location plan<sup>4</sup>, that no parties would be prejudiced by this approach. The council accepts that there was an error and would not object to the proposal being considered on the basis of the revised site plan because of the reduction in the appeal site area. They had considered the site layout on the block plan as being illustrative only, although at the same time acknowledging that this was a full planning application,
5. In my opinion, third parties would have been likely to have considered the proposal on the basis of the 12 pitches shown on the block plan<sup>5</sup> as this coincides with the description of the proposal, and realistically they would not have been likely to have noticed the discrepancy between the two plans. Technically the certificate was incorrect for the larger site, but accepting the amendment would be a considerable reduction in the site area. There might be some surprise from third parties that the site includes the small area of land beyond the 12 marked pitches on the block plan<sup>6</sup>.

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<sup>1</sup> Plan A

<sup>2</sup> Plan C – This is from the Land Registry and details the land in the appellants' ownership

<sup>3</sup> Plan B

<sup>4</sup> Plan A

<sup>5</sup> Plan B

<sup>6</sup> Plan B

However, I consider that it would not make such a material difference that further or different representations would have been made, particularly on the basis that if the appeal were allowed a condition could be imposed limiting the number of pitches to that applied for.

6. On this basis, the appeal site would be as shown on plan C, which coincides with the appellants' proposed layout of the pitches shown in Doc 7 Appendix 2 but subsequently resubmitted with a corrected scale of 1-1000<sup>7</sup>. The appeal site is therefore larger than that considered in the Ridge 1 appeal and includes part of the land that formed the Ridge 2 appeal (see planning history below).
7. The appellants also confirmed during the course of the inquiry that while it is considered that all the appellants own the appeal site, it is actually registered in the names of three persons (P Egan, M Slattery and M Gammell).

*Site address*

8. The appellants confirmed at the inquiry that the road name (Crossoaks Lane) shown on the block plan<sup>8</sup> is incorrect and should be Summerswood Lane.

*Existing use*

9. The appellants presently occupy only part of the appeal site. If the appeal were allowed the number of mobile homes and caravans would not vary considerably from those presently on site (numbers being restricted by condition), but would be spread over the area of the appeal site.

*Documentation*

10. This report includes a description of the application site and surrounding area, the gist of the cases made at the inquiry and my conclusions and recommendation. Lists of appearances, documents and plans are attached including those submitted at the inquiry. I include proofs of evidence as documents. These are as originally submitted and do not take account of how the evidence may have been affected by cross-examination or other aspects of the inquiry.

**The Site and Surroundings<sup>9</sup>**

11. An indication of the appeal sites for Ridge 1 and Ridge 2 are shown in Document 6, appendix 1. The appeal site for this proposal includes the entire Ridge 1 site and extends a small distance into the Ridge 2 site. The difference between the Ridge 1 site and the site for this proposal would approximate with the land shown on Plan B that extends beyond pitches 6 and 7. The families occupying the site are identified in Document 18. At present there are about 6 mobile homes and 20 touring caravans at the appeal site. I would estimate from my site visit that about half the appeal site is at present occupied by caravans.
12. The appeal site is located on the eastern side of Summerswood Lane, about 200m to the south of the village of Ridge. At present access to the site is shared with the Ridge 2 land. The site is in open countryside that is designated Metropolitan Green

<sup>7</sup> Plan D

<sup>8</sup> Plan B

<sup>9</sup> Photographs are in Doc 6 Appendix 16, Doc 7 Appendix 3 and Doc 14D. The council acknowledged the use of a telephoto lens in photographs 4 and 5.

Belt and lies at the bottom of a shallow valley drained by a brook, with land rising to the north and south. The boundary on the western side of the site, fronting Summerswood Lane, has a mature mixed hedgerow and trees. There are other mature trees to other boundaries, but generally apart from limited hedging and fencing these are relatively open. There are trees and hedgerows to field boundaries beyond the appeal site. High voltage electricity cables cross the corner of the site.

13. On the east side of Summerswood Lane the wider area is a farming landscape consisting of fields and hedgerows with farms, small-holdings and premises used for equine and other activities visible from the appeal site. Beyond the appeal site and the Ridge 2 land is the village of Ridge, where there are a number of houses that overlook the valley. At the end of the village is the Cancer Research facility at Clare Hall. Public footpath 25 runs from the village to the north-east of the appeal site and then follows the brook to the south-west<sup>10</sup>. The land to the west side of Summerswood Lane is designated as a Landscape Conservation Area.
14. The site has been partially surfaced with hardcore and is occupied by 6 mobile homes and 20 touring caravans, although at the inquiry I was told that one of the mobile homes and two touring vans are about to be removed. The caravans are restricted to part only of the appeal site and are therefore relatively tightly spaced. Twelve family groups occupy the site<sup>11</sup>. Timber panelled fencing is provided to some of the perimeter boundaries and to internal pitch sub-divisions.
15. Summerswood Lane is a country lane with no street lighting or footpaths and has a speed limit of 60mph. It is straight where it passes the appeal site, but there are bends beyond the brook to the south and further away to the north.
16. The centre of the village of Ridge is about 0.75km, South Mimms about 3kms, Borehamwood about 6kms and Potters Bar about 8kms from the appeal site. No bus service passes the appeal site, but there is a bus stop<sup>12</sup> near to the Cancer Research site, which would be accessed from the appeal site through Ridge.

### Planning History

17. The appeal site forms part of a larger site formerly known as Twin Oaks<sup>13</sup>, where two planning applications made in 1991 were refused planning permission for the siting of 2 and 4 mobile homes together with access roads and hardstandings<sup>14</sup>. Reasons were the effect on the Green Belt and rural character of the area. In 1992 appeals against enforcement notices<sup>15</sup> relating to use of the Twin Oaks and adjacent land as a caravan and mobile home park and associated operational development were dismissed. Those notices remain extant in respect of the land, which was also subject to a High Court Injunction under Section 222 of the Local Government Act 1972.
18. Another planning application was made in 2000 for change of use of the land to a 12 pitch private gypsy caravan site (Ridge 1). An appeal relating to non-determination

<sup>10</sup> Doc 14C – Footpath 25

<sup>11</sup> Doc 18 – List of persons at the appeal site

<sup>12</sup> Doc 25 – Bus routes and timetable. Nearest bus stop is South Mimms, Blanche Lane BPL (Clare Hall on map)

<sup>13</sup> Doc 6 Appendix 1 – Site plan

<sup>14</sup> Doc 6 Appendix 4 and 5

<sup>15</sup> Doc 6 Appendix 7 and 8 – Enforcement notices and appeal decisions – Those relevant to this land are B1, B2, C1, and C3.

of the application was dismissed in 2001<sup>16</sup> on the basis of inappropriate development in the Green Belt and landscape harm. However, this decision was partly on the basis that the appeal site was in a Landscape Conservation Area, which it is not. In 2002 a High Court challenge in relation to this appeal was dismissed.

19. The neighbouring site (Ridge 2)<sup>17</sup> was occupied by an unrelated group of families and enforcement action was taken in 2001. An appeal against the enforcement notice was dismissed<sup>18</sup> in 2003 because of harm to the Green Belt, highway safety and distance to services. A subsequent High Court challenge was also unsuccessful. The appellants' requirement in the Ridge 2 appeal was for 5 static caravans and a residential caravan<sup>19</sup>, which is considerably less than proposed in relation to the current appeal.

### Planning Policy

20. The development plan includes the Hertfordshire Structure Plan Review 1991-2011 adopted in 1998 [SP] and the Hertsmere Local Plan adopted in 2003 [LP].
21. **SP Policy 5 and LP Policy C1** note that there is a presumption against inappropriate development in the Green Belt and permission will not be given, except in very special circumstances. This reflects guidance in PPG 2. **LP Policy C15** requires particular regard to locating development as unobtrusively as possible, taking advantage of contours and landscape features, using materials in keeping with the locality, noting that where modern materials are acceptable they should be as unobtrusive as possible. The scale, height and bulk of the development should be sympathetic to, and compatible with, the landscape setting and not be harmful to the openness of the Green Belt. Existing trees and hedgerows and other features of landscape and ecological interest should be retained and be reinforced by additional planting. **LP Policy H10** sets out a number of general development principles aimed at ensuring a satisfactory design and layout of residential development, taking into account the impact of development on its surroundings. Amongst other things, proposals that would be conspicuous from the Green Belt should not harm the visual amenities of the Green Belt by reason of their siting, materials or design.
22. Provision will be made for gypsies who resort to or reside in the County, which **SP Policy 12** indicates will be achieved through support for the development of permanent gypsy caravan and transit sites in satisfactory locations. The need for additional sites for gypsies and travellers in the borough will be reviewed and any proposals for new sites should, in accordance with the criteria based **LP Policy S9**, amongst other things, demonstrate clear evidence of the need for a site and the reasons for the particular location, have access to shops, services and the major road network and not detract from the visual amenity of the area.
23. **LP Policy M9** indicates that in considering all planning applications for development, particular regard will be paid to, amongst other things, the compatibility with movement and transport policies in the SP and LP, the adequacy of any proposed vehicle access and the likely impact of any associated traffic generation on the local road network and the environment of the locality.

<sup>16</sup> Doc 6 Appendix 9 SoS decision and inspector's report

<sup>17</sup> Doc 6 Appendix 1 Site plan showing Ridge 2

<sup>18</sup> Doc 6 Appendix 10 SoS decision and inspector's report

<sup>19</sup> Doc 6 Appendix 10 paragraph 83 page 13 inspector's report

24. Hertfordshire County Council has a **Guide to Policy on Gypsies and Travellers** originally written in 1983 but last updated in 2000<sup>20</sup>. This explains the County Council's approach to the various factors related to gypsies and travellers.
25. Also relevant is government advice in **Planning Policy Guidance Note 2 - Green Belts (PPG 2)**, **Planning Policy Guidance Note 3 - Housing (PPG 3)**, **Planning Policy Guidance Note 7 - The Countryside-Environmental Quality and Economic and Social Development (PPG 7)**, **Planning Policy Guidance Note 13 – Transport (PPG 13)**, **Circular 1/94 Gypsy Sites and Planning** and **Circular 18/94 Gypsy Site Policy and Unauthorised Camping**.

### **The Proposals**

26. The appeal proposal intends to make use of all the land within the appellants' ownership, providing 12 individual pitches to accommodate the group of twelve gypsy families. It is proposed that the pitches would be laid out in a similar way to that shown on plan D, which includes all the land in the appellants' ownership. Fencing and landscaping would define these. Each pitch would have space for a mobile home, a touring caravan and parking. Hardstanding and a new access would be provided from Summerswood Lane and additional landscaping would be introduced to reinforce the existing boundary planting and screen the proposal.

### **Other Agreed Facts**

27. The site is within the Green Belt where this type of use is inappropriate development and therefore very special circumstances are required to justify it.

### **The Case for the Council**

28. The case for the council is set out in Documents 4 and 6. The material points are:-

#### **Gypsy status**

29. If the appellants are to rely on gypsy status it is for them to clearly demonstrate that they are, and intend to remain, gypsies. It was acknowledged that some of the appellants had been accepted as being gypsies in relation to previous applications and having a settled base was not incompatible with gypsy status, but status can change with the passage of time.
30. Reference was made to *R v S Hams DC ex p. Gibb [1995] AB 158*, and *Wrexham CBC v National Assembly of Wales and Berry [2003] EWCA Civ 835*. In particular, gypsy status requires a 'nomadic way of life' at the time a decision is being made and that there should be some recognisable connection between the wandering or travelling and the means whereby the persons concerned make or seek their livelihood. Reference was also made to *South Bucks DC v Porter [2003] EWCA Civ 687* relating to the need to balance harm against the appellants' personal circumstances.
31. The evidence presented does not show that gypsy status has been retained. The pattern of working/travelling by Mr Egan is not that of a nomadic nature, but more akin to that of a sub-contractor in the building industry, and reference is made to *Robert Clarke-Gowan v SoSTLGR [2002] EWHC 1284*. Four of those resident at the site cannot travel again and there is insufficient information to conclude that others at

<sup>20</sup> Doc 6 Appendix 15

the site fulfil the requirements to gain the benefit of gypsy status for planning purposes.

#### *County policies of gypsies and travellers*

32. The County Council has a Guide to Policy on Gypsies and Travellers<sup>21</sup>. This provides general guidance, including matters relating to current site provision and educational and health provision. Strategic criteria for the adoption of gypsy sites is provided including the need to be located in areas where adequate educational, social and community services are available. It also encourages gypsies to consult the authorities on planning matters before buying land.

### **Green Belt**

#### *Inappropriate development*

33. SP Policy 5 and LP Policy C1 reflect guidance in PPG 2, which confirms the advice in Circular 1/94 that the use of land for a gypsy site in the Green Belt is not among those uses which are normally appropriate in the Green Belt. It is not a use that paragraph 3.4 of PPG 2 identifies could be appropriate development in the Green Belt.

#### *Openness*

34. A fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. Prior to the unauthorised use of the appeal site it was open and undeveloped agricultural land. Use of the site with hard standings, stationing of caravans, ancillary structures, cars and commercial vehicles, plant and machinery materially erodes the openness of the Green Belt. There would not be a significant increase in bulk in relation to the caravans presently on the site. Nevertheless, extension of the use to the whole of the appeal site would become more prominent over a wider area, with increased hardstandings and additional fences and therefore would intensify harm to openness.

#### *Purposes of Green Belt*

35. The proposed use is essentially urban in character and would unacceptably conflict with the aim to check the unrestricted sprawl of large built-up areas, the prevention of neighbouring towns from merging into one another, safeguarding the countryside from encroachment and would harm the setting of a historic village. These are four of the five main purposes of including land in the Green Belt. The present and proposed use of the land is and would be a serious physical encroachment, introducing highly urbanising development into a narrow and important part of the Green Belt.

#### *Visual amenity of Green Belt*

36. The area has an attractive character, with open land that is used for farming and grazing. The existing use of the site harms the visual amenity of the area because the appeal site is highly visible from various publicly accessible vantage-points, including Crossoaks Lane, Summerswood Lane, public footpath 25 as well as from the village of Ridge, including from the public house and many private houses<sup>22</sup>. The

<sup>21</sup> Doc 6 Appendix 15

<sup>22</sup> Doc 14C shows photograph locations that generally correspond with these view points

bright and reflective nature, size and rectangular forms of the caravans are highly conspicuous and alien features within the soft rural landscape. The harm presently caused by the use of the site would be further increased because the application site is larger than the area of site being used at present. Therefore, even if the number of caravans and vehicles remained the same, spreading them over a wider area would have a greater visual impact and effect on the character of the area.

37. Given the topography of the area, it is not considered that the existing or additional boundary planting does or would adequately screen the appeal site, and the caravans remain highly visible and incongruous features. Inspectors, when considering previous appeals in this location, also found harm to the visual amenity of the Green Belt. In any case, the existence or otherwise of screening cannot make inappropriate development appropriate.

#### **Very special circumstances**

38. In the light of the proposal being inappropriate development, it is for the appellants, to demonstrate why permission should be granted and to demonstrate that there are very special circumstances, and not for the council to prove the contrary.

#### *Existing provision and needs of the appellants*

##### *Existing sites*

39. The Criminal Justice and Public Order Act 1994 removed the council's status as a designated authority in respect of the requirement to provide gypsy caravan sites. However, the council provides 42 pitches at two sites at Sandy Lane, Bushey and South Mimms<sup>23</sup>. The level of provision is the third highest within Hertfordshire and has increased since the last appeals were considered in relation to Ridge 1 and Ridge 2, because two private gypsy caravan sites have been permitted at The Pylon site and One Acre<sup>24</sup>.

##### *Vacancies*

40. The South Mimms site has been visited on numerous occasions, when there have been between 1 and 4 vacant pitches. Sites within Broxbourne, Dacorum, St Albans and Stevenage, based on information in the biannual gypsy counts for July 2002, all appear to have significant additional capacity. The number of vacancies has increased since the last appeals were determined. Within the borough, occupation of the available sites has remained consistent, with 59 caravans on the council's sites in July 2001 compared to 62 in July 2002. In addition, at the last appeal the appellants sought to rely on the closure of the South Mimms site. This site is now open and was so when the Ridge 2 appeal decision was issued. The increased provision and stable situation in relation to use of existing sites reinforces previous decisions and would not justify a different approach in relation to this appeal.

##### *Local plan*

41. At the time of preparing the local plan, officers of the gypsy section of the County Council confirmed there was no deficiency<sup>25</sup> of provision in the Hertsmere area and at that time no illegal encampments. Officers were aware of a previous illegal

<sup>23</sup> Doc 5 Biannual counts

<sup>24</sup> At the inquiry the council advised that the decision to allow the One Acre proposal has recently been quashed

<sup>25</sup> Doc 6 Appendix 18

encampment at The Pylon site, so the owners were invited to participate in the process but their request to remove the site from the Green Belt was rejected<sup>26</sup>. Neither the appellants, other gypsies/travellers nor the gypsy section of the County Council made representations in relation to the Green Belt or proposed gypsy policies in the local plan.

*Assessment of quantitative need*

42. It was accepted at the inquiry that the assessments made in relation to the needs of gypsies and travellers would not amount to a full quantitative assessment as envisaged by PPG 3. However, the policy was drafted prior to the current PPG 3 and was underpinned by an assessment of need, having regard to the then currently recognised sources of information. It was accepted that there could be inaccuracies in the biannual counts but that research shows that this is likely to be small<sup>27</sup>. The development plan does not preclude the establishment of private gypsy/traveller caravan sites but requires proposals to be considered against various land-based policies. LP Policy S9 relates specifically to gypsy and traveller developments and the criteria based approach to assess these was supported by the LP Inspector. It would not be acceptable to identify sites in the Green Belt as this would be contrary to advice in PPG 2 and C 1/94.
43. However, it is acknowledged that in The Pylon appeal it was decided that, in the absence of a quantitative assessment of need, LP Policy S9 should carry limited weight. Even if that were to be considered the case here it would not diminish the weight to be given to Green Belt policies, as there is no cross over between the policies and it cannot mean that gypsies should be allowed to remain on unauthorised sites solely because a full quantitative assessment has not been carried out<sup>28</sup>. In addition, there is no recognised way to make such an assessment, there being no figures handed down from government upon which such an assessment can be made<sup>29</sup>.

*Other alternative sites*

44. No assessment has been put forward to justify the use of this site as a gypsy/traveller caravan site, the only matter being relied upon is ownership and occupation. There is no need for the appellants to live on this site rather than in the general area. While the appellants note that other sites have been investigated and estate agents contacted, there is still insufficient evidence to conclude that no other site would be available or that the sites identified would not be acceptable or affordable.
45. It is acknowledged that, because the countryside in Hertsmere is all within the Green Belt, other likely sites would also be within the Green Belt. It is not accepted that there would be no urban sites that might be suitable and it is considered highly likely that other sites could be found in the Green Belt that would cause much less harm than at the appeal site, i.e. as found at The Pylon and One Acre sites.

<sup>26</sup> Doc 6 Appendix 17

<sup>27</sup> Doc 16 Counting Gypsies paragraph 2.8

<sup>28</sup> Doc 32 Appeal decision APP/J0405/C/02/1093654 page 6 paragraph 27

<sup>29</sup> Doc 17 The provision and Condition of Local Authority Gypsy/Traveller Sites in England – page 43

### ***Personal circumstances***

#### ***Educational need of children***

46. The appeal site is not well located in relation to schools, and taxis are required to transport the children to and from them. While the children may have become settled in these schools, this is as a result of the unlawful occupation of the appeal site, contrary to enforcement notices and injunctions. The children would be able to attend either these or other schools from many locations that would not involve significantly more travelling than the appeal site.

#### ***Health need of appellants***

47. It is acknowledged that residents are receiving health care for various problems, and the medical evidence presented by local doctors and hospitals is not challenged<sup>30</sup>. In relation to Catherine Flynn and Margaret Egan no comment can be made on the medical evidence as they were not examined by the council's medical expert. However, it is not accepted that access is required to this particular hospital or that any general hospital would not be able to provide the care required. In any case, the appeal site is remote from Barnet General Hospital, being over 8kms from it or any health care facilities.
48. The personal circumstances relating to this, education of children and harassment of the appellants has not materially changed since the previous appeals, when these were not considered to be very special circumstances sufficient to justify the proposals.

#### ***Boundary screening***

49. Boundary planting either proposed or existing is not and would not screen the site from the many view points that it can be seen from, because of the topography of the area. This does not amount to a very special circumstance sufficient to outweigh the considerable harm of the proposal.

#### ***Location of services***

50. The appeal site is not within or abutting any settlement. Ridge, the closest settlement, is a very small village with no social, educational, shopping or health facilities. The only community facilities in Ridge, confirmed at the inquiry, are the church, church hall and public house. The closest main facilities are in Potters Bar (about 8km from Ridge) or Borehamwood (about 6km from Ridge). There are no convenient bus stops or footpaths so these centres are only readily accessible from the appeal site by using private motorised transport.
51. The site is not readily accessible from the primary road network, being approached along rural roads. It fails to meet locational requirements of LP Policy S9 and SP Policy 12. It is acknowledged that the inspector in the 2001 appeal did not find harm in relation to the location of the appeal site. However, the First Secretary of State in the March 2003 decision in respect of the neighbouring site concluded that the proposal would make no contribution towards national policies and aims to reduce the need for travel, particularly by private car.

<sup>30</sup> Doc 11 Appendix 6

### Character and appearance

52. The harm identified to the visual amenity of the Green Belt above is also relevant to the effect that the proposal would have on the character and appearance of the surrounding countryside generally, and landscaping would not mitigate this harm. At the inquiry it was accepted that additional planting might soften the impact of the use and it was acknowledged that a 2m high fence could be constructed as permitted development, but that would not overcome the harm identified. However, it was not accepted that this would overcome the harm; a 2m high fence would be likely to increase the urbanising effect. The site would not be a suitable location for the existing or proposed use and therefore conflicts with the requirements of Local Plan S9 (iii). Third party representations indicate that the proposal would have an impact on the amenity of local residents, some of whose houses overlook the appeal site.
53. The appeal site is close to the Ridge Conservation Area, which derives some of its interest and character from the setting in unspoilt open countryside. Conservation area guidance notes relating to the Ridge Conservation Area identify as a typical feature the rural setting in fields and that views over the fields to and from the village are valuable<sup>31</sup>. These views would be eroded by the proposal. It also notes, 'the principle characteristic of the conservation area is that of a still rural farming community and this can be attributed to its setting in cultivated fields and the existence of two farmsteads in the village centre'. The proposed sporadic urban fringe development, while being outside the conservation area, would not preserve or enhance the character and appearance of the conservation area.
54. Previous inspectors at Ridge 1<sup>32</sup> and Ridge 2<sup>33</sup> found there would be harm in relation to the conservation area.

### Highway safety

55. The proposal does not demonstrate that there would be adequate sight lines at the access to the appeal site. The road has a speed limit of 60 mph, although the 85<sup>th</sup> percentile speed is 40 mph, for which sight lines of 2.4m by 120m are required<sup>34</sup>. It is considered that sight lines of these dimensions would cross land outside the appellants' ownership<sup>35</sup> and therefore it would not be possible to secure them by condition, particularly as a 'grampian' style condition would be inappropriate as the use of part of the land is already occurring.
56. If it were possible to achieve these sight lines it would be necessary to remove much of the existing boundary hedge at the front of the site to achieve 10m entrance radii and the sight lines. There would be a gap of about 12m in the hedge. Removal of the hedge would make the site more visible from public areas, which would adversely affect the visual amenity of the Green Belt. Roadside hedges and planting are an important part of the local landscape character and loss of the hedge would adversely affect the character of the area.

<sup>31</sup> Doc 14B Conservation Area Guidance

<sup>32</sup> Doc 6 Appendix 9 Inspector's report page 11 paragraph 63

<sup>33</sup> Doc 6 Appendix 10 Inspector's report page 29 paragraph 185

<sup>34</sup> Doc 6 Page 36 paragraph 6.96

<sup>35</sup> Doc 14E

## Other Matters

### *Human Rights*

57. The appellants seek to rely on Article 8 of the European Convention on Human Rights (ECHR). Article 8.1 does not provide the right to a home, nor does it impose an obligation to make available to the gypsy community an adequate number of suitably equipped sites<sup>36</sup>. The right to respect for one's home is qualified by article 8.2<sup>37</sup>. Planning controls aimed at preservation of the environment, public health and highway safety come within the 'legitimate aims'<sup>38</sup>.
58. The site causes considerable harm to the Green Belt and surrounding countryside as outlined above, with potential harm to highway safety. When considering whether a requirement for persons to leave their home is proportionate it is highly relevant whether or not the home was established unlawfully. The European Court of Human Rights (ECtHR) has stated that it will be slow to grant protection to those who, in conscious defiance of the prohibitions of the law, establish a home on an environmentally protected site. The Statutory Declaration<sup>39</sup> submitted with the original planning application (Ridge 1) indicates that the appellants were not in residence prior to the application being decided, but moved on to the site following refusal but prior to the appeal being decided. Therefore, the appellants were aware of the planning situation before moving on to the site.
59. It is considered that the accommodation, medical and educational needs of families can be met elsewhere and this matter does not outweigh the harm to the environment. It is not considered that a disproportionate burden is being placed on the appellants, and their rights in relation to article 8 would not be infringed. This was also the view of the courts in relation to a previous appeal at the site by some of the appellants in this case<sup>40</sup>.

### *Previous appeal decisions*

60. In the 1992 decision<sup>41</sup>, the inspector concluded that a gypsy caravan site is not appropriate development in the Green Belt and that even with screening the proposal would harm the Green Belt. The personal circumstances were not considered to outweigh the harm identified.
61. The August 2001 decision<sup>42</sup> considered that a key factor was to protect the area's most attractive landscape and that the proposal would cause substantial impact on the openness of the Green Belt in this location and considerable harm to the important landscape. It was considered that there was no essential need for those appellants to live at the appeal site as opposed to the general area.
62. It is acknowledged that in the 2001 appeal the site was wrongly identified as being within a Landscape Conservation Area (LCA) and this was material to the assessment. However, the inspector made a full assessment of the landscape character of the area independent of the LCA status and concluded that it was

<sup>36</sup> Doc 6 Appendix 20 Chapman v UK paragraph 99

<sup>37</sup> Doc 6 Appendix 20 Chapman v UK paragraph 78

<sup>38</sup> Doc 5 Appendix 21 Buckley v UK paragraph 62-63

<sup>39</sup> Doc 27 Statutory Declaration and Evidence Statement

<sup>40</sup> Doc 6 Appendix 22 Egan v SoS High Court Judgement 2002

<sup>41</sup> Doc 6 Appendix 8 Inspector's report page 29 paragraph 187

<sup>42</sup> Doc 6 Appendix 9

attractive in its own right and in determining the later appeal at Ridge 2 the First Secretary of State made a full assessment of the landscape in the knowledge that the site was not in the LCA .

63. Since the previous appeals there have been no substantial changes in the circumstances warranting a different conclusion.
64. It was acknowledged at the inquiry that previous appeals had concluded that there was a need for gypsy sites in Hertfordshire and Hertsmere in particular.

#### *Pylon site*

65. The Pylon decision approving the appeal and allowing a gypsy caravan use on a site in the Green Belt was made because of the very special circumstances of the appellants which were balanced against the harm that the proposal would cause. It is also relevant that the decision made by the First Secretary of State in March 2002 at Ridge 2 was made following The Pylon decision, which made references to the differences between the two locations.
66. The views of the First Secretary of State and the reports of inspectors are highly material and as circumstances have not changed, the same criticism would apply to this proposal.

#### *Precedent*

67. During the inquiry the principle of each site being considered on its own merit was accepted and it was noted that in The Pylon appeal little weight was given to precedent. However, in this case there is a history of similar applications on this and adjacent land. Permission at this site would erode the rural character of the area and reduce its open aspect, thereby lessening the weight that could be given to the character of the area in relation to possible future applications on the adjacent sites. The planning history indicates a high likelihood of this occurring. There could be difficulty in resisting other applications in the Green Belt and if repeated it could lead to the coalescence of Ridge and Shenley.

#### **The Case for the Appellants**

68. The case for the appellants is set out in Documents 7, 8 and 9 and the material points are:-

#### *Gypsy status*

69. The appellants were born and bred as gypsies, have always followed a gypsy lifestyle and are gypsies by descent. The gypsy status of those appellants that were involved in the previous appeal was not disputed and nothing has changed since that time. The appellants have travelled as an extended family group around the country. Prior to coming to the site the appellants travelled mainly around Hertfordshire, but also sometimes more widely including staying on sites at Thurrock and Dale. They have mainly utilised roadside and unauthorised encampments, having to move on when evicted; sometimes this was every two days or so. Some of these evictions have been extremely unpleasant<sup>43</sup>.

<sup>43</sup> Doc 8 Appendix 1

70. They are employed in traditional gypsy activities of landscaping and sales, which they carry out in the local area. The appellants also travel regularly, whenever possible, to maintain that lifestyle. It has only been within the last 3 years since arrival at the appeal site that the appellants have had any stability in terms of where they reside.
71. Mr Egan travels where work takes him, although he has a serviced office in Chiswick Road, which effectively is used to receive post and telephone calls. Mr Egan regularly telephones the office to obtain calls and goes there to collect post about once a week. He is registered with Yellow Pages, Thompson Directories and is on the Internet. Mr Egan has had other businesses<sup>44</sup>, but now his only company is Classic Paving and Landscaping, which he operates with his brother who lives on a gypsy caravan site at Dale in Essex, but is helped by Mr Egan's son and other men at the appeal site as and when required. He is a member of the UK Trades Confederation and Federation of Master Builders. Mr Egan's income varies from week to week and may be as low as £300 or as high as £1500. Mr Egan was unable to give any indication of the earnings of others on the site, apart from when they work for him, when money received for jobs is generally split fairly equally, but allowing some extra for Mr Egan in relation to his costs in obtaining the work.
72. Mr Egan has worked all over the country, including Scotland, Birmingham and London, and also abroad including Sweden, Germany and France. He can be away from home between six and twelve times a year, maybe for three/four weeks or just a few days. Since being on the site travelling has reduced, as being settled has meant not being moved on and therefore jobs have been retained. At the inquiry Mr Egan noted that to work in the building trade a permanent base is required. When travelling, specially converted touring caravans are used with better than normal facilities and which hold personal items. A list of previous<sup>45</sup> jobs includes two weeks in Brentford, Chelsea and Normandy.
73. Other travelling includes to traditional fairs in the summer, about three to five times a year, including those at Appleby, Doncaster and Newark, when families normally accompany the men. Families tend to come travelling in the holidays as this avoids disrupting children's education.
74. Other men at the appeal site are involved in building work and painting and decorating and in the sale of three piece suites, which they travel around to sell.
75. In response to the inspector's question, Mr Egan explained that it was not possible for him to live away from the area, as his brother does, because Mr Egan has to travel about during the day organising work, liaising with the office and collecting post.
76. The appellants submit that the test in *R v Sth Hams DC ex P Gibb (1995 QB 159 CA)* is no longer the sole test, particularly taking account of *O'Connor v SOSTLGR 2002 EWHC 2649 Admin* where the reason for ceasing travelling at a particular time and future intentions also need to be considered. This was not changed by *Wrexham CBC v NAW and Berry [2003] EWCA Civ 835*, which noted that having a permanent base for periodic travelling would not necessarily remove nomadic status and the fact of temporary confinement for such reasons as health and education also may not remove status depending on the reasons and length of time, past and projected, of the

<sup>44</sup> Doc 24 Certificates First Class Painting Services and First Class Home Front

<sup>45</sup> Doc 23 List of some of Mr Egan's previous jobs and Doc 24 portfolio of photographs

abeyance of their travelling life. It is considered that the length of time that Mr Egan is working away is materially different to that considered in *Clarke-Gowan v SoSTLGR [2000] EWHC 1284*.

## **Green Belt**

### *Inappropriate development*

77. It is acknowledged that the use of the site for gypsy caravans is inappropriate development and that harm caused by inappropriate development must carry substantial weight. However, harm to the Green Belt must be weighed against material considerations, which indicate that planning permission should be granted. Very special circumstances may justify inappropriate development and it is accepted that these will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

### *Openness*

78. At the inquiry it was accepted that in terms of harm to the Green Belt little had changed in relation to the Ridge 1 and Ridge 2 proposals and that the current and proposed use of the appeal site would compromise the openness of the Green Belt. However, a gypsy site in Hertsmere is likely to be in the Green Belt. Therefore, harm by reason of inappropriateness and the loss of openness would be no worse than at any other site in the Green Belt.

### *Visual amenity of Green Belt*

79. The appeal site is not located in a Landscape Conservation Area and is not protected for its landscape or conservation value and has overhead electricity cables crossing the site. The current dense appearance of the caravans would be improved by having a similar number of caravans spread over a wider area with fencing and planting of trees and shrubs. These would, in time, help to screen and break up the appearance of the site from distant view, with only the upper parts of the caravans remaining visible. The appeal site would be well contained within boundaries and would not encroach any further into open countryside, although at the inquiry it was accepted that landscaping would not fully screen the site, but break up the views.

80. This would mitigate the harm to the character and appearance of the Green Belt and openness would not be significantly eroded.

## **Very special circumstances**

### *Existing site provision*

#### *Site provision*

81. Circular 1/94 notes that proposals for gypsy sites should be judged, like other development, against the development plan, but that the planning system should recognise the need for accommodation consistent with the nomadic lifestyle of gypsies. Adequate provision should be made in the development plan through the appropriate use of locational and/or criteria-based policies. The SP and LP post date Circular 1/94, but fail to comply with its advice. In particular SP Policy 12 is neither a locational nor criteria-based policy.

82. LP Policy S9 requires applicants to demonstrate clear evidence of the need for a site and their reasons for a particular location. This does not accord with C1/94, which notes that authorities should not refuse private applications on the grounds that they consider public provision in the area to be adequate, or because alternative accommodation is available elsewhere on authorities' own sites. A requirement to demonstrate need would prevent gypsies on existing sites establishing sites of their own, or from migrating from one area to another.

83. At The Pylon site, the SoS was critical of the then emerging policy, which was not changed prior to adoption. This was because it was not derived from an assessment of need for gypsy site provision in the area and also because LP Policy S9 did not accord with the requirements of the latest version of PPG 3. The DETR in a letter of May 1998 noted, amongst other things, 'authorities may also wish to consider whether the absence of such provision (*gypsy site provision in development plans*) may prejudice successful enforcement action against unauthorised encampments'. The lack of adequate policies in the development plan to meet gypsy needs, identified by a quantitative assessment, will weigh in favour of retention of unauthorised sites that are subject to enforcement action.

84. In The Pylon site appeal the SoS found that the lack of adequate policies contributed towards a finding that very special circumstances existed to justify allowing a gypsy site in the Green Belt<sup>46</sup>.

85. Of the gypsy caravan sites within Hertsmere, the permanent site at Sandy Lane is fully tenanted and the County Council confirmed that the turnover of pitches is very low<sup>47</sup>. The South Mimms Transit site is fully booked, but in any case these can only be occupied for a maximum period of 3 months and demand for these has risen<sup>48</sup>.

86. The County Council has confirmed that nine out of ten permanent public sites in Hertfordshire are currently full and there are long waiting lists. The Three Cherry Trees site at Hemel Hempstead had up to seven vacant pitches earlier this year but three were subsequently taken. However, two families dominate this site and only those compatible with these clans tend to take up vacancies. The appellants would not be welcome at this site and because of the risk would not be able to take up vacancies there. In any case, the number of vacancies would not be sufficient to accommodate the whole group.

87. In relation to The Pylon site appeal, the SoS accepted that there was a substantial shortage of gypsy sites in Hertfordshire in general, and Hertsmere in particular. The biannual count of gypsies shows a persistent problem of unauthorised camping in Hertfordshire, with Hertsmere accounting for a substantial proportion of such camping. The situation is getting worse at each count. However, the count is prone to inaccuracy even in relation to unauthorised camping and it is considered that the 'hotline' record<sup>49</sup> provides a more accurate indication of need than the biannual counts.

88. 'Hotline' records show that there were 48 unauthorised encampments in Hertsmere, although it is acknowledged that some families will be counted more than once. The gypsy population is growing, so in the absence of an adequate supply of caravan sites

<sup>46</sup> Doc 7 Appendix 12

<sup>47</sup> Doc 7 page 21 paragraph 5.31

<sup>48</sup> Doc 7 page 21 paragraph 5.32

<sup>49</sup> Doc 7 Appendix 15 and 16 – Record of unauthorised gypsy sites

new household formation is stifled or gypsy families are forced to live in conventional housing, which would be totally unacceptable to the appellants. Research published by the ODPM in October 2002<sup>50</sup> indicates that a significant number of new pitches will be required over the next 5 years.

89. The Council has not suggested any alternative sites that would be more suitable to meet the appellants' needs and have not in the development plan process identified any land that would be suitable. While gypsy sites are likely be provided in the countryside outside villages, in Hertsmere this is all Green Belt land. The other gypsy sites in Hertsmere are in the Green Belt and it is therefore likely that any future sites would also be in the Green Belt. The appellants have heeded government advice and provided their own site and it makes little difference whether the desire to provide a private site arose from gypsies leaving a public site or were living on the roadside. The fact that the appellants moved on to the site without permission does not nullify the fact that there is an unmet need<sup>51</sup>.
90. In the previous appeal, criticism was made in relation to the lack of evidence of a search for suitable alternative sites. A search has been made<sup>52</sup> by the appellants and by the agent in association with other cases in the area. When enquires were made of the County Council by the appellants' agent in relation to The Pylon appeal, suitable land was not identified<sup>53</sup>. Other land that was identified was not suitable, generally being considerably too expensive. The situation is unlikely to have changed. This was accepted in relation to The Pylons and One Acre site appeals.
91. Attempts have been made recently to obtain other land for a site by registering with land agents and searching the internet. No suitable sites have been found<sup>54</sup>. Where plots are available these are generally small and relatively expensive. Those followed up by the appellants were unsuitable for various reasons, including size, location, access and cost. In addition, when the purpose of acquiring the land was known, sellers were unwilling to proceed as they considered gypsy use may prejudice sale of adjacent plots. The appellants confirmed at the inquiry that their requirement was for a site within a reasonable distance of the M25 and suitable for the twelve families.
92. Finances play a major role in finding suitable sites, because gypsies are unable to raise capital in the normal way. Therefore, land prices must be relatively low. Competition from other land uses has the effect of raising prices in built-up areas, particularly where development is constrained by the Green Belt, so it is unrealistic to consider that suitable sites may be found in urban areas.
93. Therefore, any alternative site is likely to be in the Green Belt and the appellants consider that it is difficult to conceive of a site that would be less harmful to the character and appearance of the Green Belt than this one. The lack of alternative sites and the substantial need for additional accommodation outweighs the harm identified and amounts to very special circumstances sufficient to justify granting planning permission.

<sup>50</sup> Doc 7 Appendix 17 The Provision and Condition of Local Authority Gypsy/Traveller Sites in England

<sup>51</sup> Doc 7 Appendix 18 – Planning Appeals 1083451 - 1083454

<sup>52</sup> Doc 8 Appendix 2

<sup>53</sup> Doc 7 Appendix 20 – Letter from Hertsmere Council 15 March 2001

<sup>54</sup> Doc 8 Appendix 2

*Need of the appellants*

94. The appellants would wish to travel more often, but difficulties of life on the road have led to increased competition in finding a pitch on local authority sites, which results in conflict between families each wanting to secure vacant sites for their own family members and making it difficult and less pleasant to travel. The appellants have been at the site for some time and now have 'ties' to the area including in relation to work, school and health.
95. Mr Egan confirmed at the inquiry that the search has been for a site large enough to accommodate the twelve families. However, it was acknowledged that prior to coming to the appeal site the families endeavoured to travel as a group as they rely on each other for support, but this was not always possible, particularly when forced to move off a site.
96. It was accepted at the inquiry that the family did not always travel in a group of twelve and were not always in the same camp at the same time. Where sites were available they would travel together, if not they would travel in smaller groups, albeit attempting to re-group when possible. The point was made that the Sheridan group (which includes the Egan family) consisted of thousands of people. It was also acknowledged that the Gore family did not arrive at the appeal site until 2002, although they had been there previously and travelled again. Occupiers come and go. Mr Egan's brother lives a considerable distance from the appeal site, but is still able to work with Mr Egan.
97. At the inquiry it was confirmed that no one at the appeal site has put their name on the council's waiting list for gypsy sites [97].

*Educational need of children*

98. There are about 21 children generally resident on the site and many of these attend local schools<sup>55</sup>, with four progressing to secondary school this autumn. The majority of pre-school children are registered for local primary schools and benefit from nursery education and a 'mobile play bus' attends the site. This bus is only able to attend because it is a stable site. If the families were moving around the area the bus would not visit. The schools attended are all within the Potters Bar and South Mimms area and include Cranborne Primary School and nursery, St Giles Primary School, Hertswood Secondary School, Summerswood Pre-school, Ridge Pre-School and Parkside W.E.F with transport arranged by the County Council consisting of a taxi/minibus for children attending primary schools onward. Parents take younger children to pre-school groups.
99. Mobility has a negative impact on a traveller child's education and the experience is that the more mobile the greater the impact. As with any child, educational achievement and attendance is positively affected when they are going to one school, as it is possible to develop quality relations between child and teacher, parent and school. In addition, schools educate the whole child, providing social skills, personal development and peer relationships, which can only be achieved with a settled base.
100. Evidence presented at the inquiry and letters from schools<sup>56</sup> indicate that the children are generally well settled in the schools, with reasonably regular attendance enabling

<sup>55</sup> Doc 7 Appendix 21 – Letter from County Council

<sup>56</sup> Doc 7 Appendix 22, Doc 8 Appendix 4 and Doc 11 Appendix 5

them to start to catch up where they have fallen behind due to past irregular attendance caused by travelling. With a settled base and regular attendance special programmes of learning can be devised enabling these children to make good progress. A settled base allows younger children to start at pre-school and work their way through the school system which is critical and of substantial benefit to the individual child. The children's education has been fully supported by parents.

101. At the inquiry it was agreed that the County Council's Policy<sup>57</sup> is to provide support through a peripatetic team, to secure the best possible access, attendance and achievement of all traveller pupils wherever they are located. School Record cards are provided to help receiving schools obtain educational records from previous schools attended. However, the advantages of staying in one school cannot be underestimated, nor can the impact of constantly having to travel. Highly mobile traveller families are normally unable to access 'early years' education and therefore continued residence at the appeal site would be highly desirable for these children.
102. Other appeals have been supported on the basis of the educational needs of children<sup>58</sup>.

#### *Health need of appellants' families*

103. The appellants consist of 12 individual groups within one extended family of mothers, fathers, aunts, cousins, brothers and sisters who have always travelled together. There are nine single parents resident on the site<sup>59</sup>. The groups are identified in Document 18.
104. There are ten adults and one child at the appeal site that suffer from medical problems of varying severity. Some of the travellers at Ridge are awaiting operations and a number have outpatient appointments for ongoing health problems. As the appellants are settled they have access to the facilities and health care that they and their children need and as a result health has improved<sup>60</sup>. If they had to travel again it would become increasingly difficult for the appellants to access the type of health care that is needed and to attend follow up appointments. Granting planning permission would mitigate these problems.
105. Doctors' letters and hospital appointments<sup>61</sup> have been provided, but those with health problems include the following. Mrs A Egan has, amongst other things, ischaemic heart disease, severe hypertensive disease, morbid obesity, osteoarthritis of her knees and a renal stone. She requires considerable medication and substantial help from her family and regular supervision from the primary and secondary health care team. She often requires referral to hospital in the context of an emergency and it is vital that she is known at the hospital as this assists in managing her conditions. She has difficulty eating and cannot use portable toilets, which would be required if travelling.
106. Mrs M Quilligan has a thyroid disorder and anaemia and requires Radioiodine therapy and on-going monitoring and attendance at a GP's surgery and hospital outpatients. Her health would be endangered if not properly treated.

<sup>57</sup> Doc 6 Appendix 15 – Hertfordshire CC Guide to Policy on Gypsies and Travellers pages 5 and 6 paragraph 5

<sup>58</sup> Doc 7 Appendix 23 – Previous appeals

<sup>59</sup> Doc 7 Page 31 paragraph 5.68

<sup>60</sup> Doc 8 Appendix 6 – Letter from Sue Beck Hertsmere NHS dated 22 August 2003 3<sup>rd</sup> paragraph

<sup>61</sup> Doc 8 Appendix 3 and Doc 11 Appendix 6

107. Mrs K Slattery needs a hysterectomy later this year. Mr M Slattery has Osteoarthritis and diabetes and diverticulitis. The lack of a permanent home could exacerbate the diabetes. Ms R Slattery suffers from depression. Her mental health could be affected by the lack of a permanent home. Mr Patrick Egan suffers from eye problems requiring surgery and Hannah Egan, the one child with severe medical problems, requires speech therapy as a result of operations on her palette and further operations are required.
108. Mr William (Patrick) Egan suffers from disabilities as a result of being shot with an air rifle. The effects will settle and not require ongoing surgical treatment, although because of his circumstances it is considered that his health is substantially at risk and is likely to need treatment in the next 10 to 15 years. Mrs C Flynn suffers from heart disease and requires on going close surveillance and support.
109. It is considered that neither Margaret Quilligan or Anne Egan are fit enough to return to life travelling on the road<sup>62</sup>. Mr Egan also confirmed at the inquiry that Michael Slattery and Catherine Flynn cannot travel again, but no specific reasons were given why this was the case.
110. While the medical problems vary in severity, a common theme for the well being of the individuals is stability<sup>63</sup>. When on the road prior to occupying the appeal site the appellants were often evicted, sometimes as often as every 48 hours. Maintaining health care and education is very difficult because doctors do not want to see patients if they are not registered and it is difficult to find a hospital. However, at the inquiry it was noted that Mrs A Egan was registered with a GP prior to coming to the appeal site. It also helps considerably if the doctors are familiar with a patient's problems. Since the previous appeal at Ridge 1 the medical problems have changed or worsened<sup>64</sup> and this was confirmed by Mr Egan in evidence, who considers that there was no comparison with the health situation now compared with that before the previous inspector at the Ridge 1 appeal.

#### **Character and appearance**

##### *Conservation Area*

111. The Ridge Conservation Area is about 300m from the appeal site, where there are limited public view points of the site from the conservation area. When seen in the context of recent large-scale development at the Cancer Research site and scattered small holdings. Conservation area are intended to protect the historic built environment and are not appropriate means of protecting landscapes. In any case, with the landscaping proposed at the appeal site the gypsy caravan use would not cause harm that would directly affect the character and appearance of the conservation area.

##### *Countryside*

112. Landscaping and screening would significantly improve the current appearance of the site. The scattered nature of development would be similar to the scattered nature of individual small-holdings. The site is not within the Landscape Conservation Area

<sup>62</sup> Doc 7 Paragraph 5.76 page 33

<sup>63</sup> Doc 7 Appendix 25

<sup>64</sup> Doc 7 page 34 paragraph 5.80

and it must therefore be assumed that there is a clear distinction between the landscape surrounding the site and that on the other side of Summerswood Lane.

### **Location of services**

113. The appeal site is no different to the transit site at South Mimms in terms of access to shops, education, health services and the major road network and there are no nearby residential properties whose amenities could be affected by the appeal proposals. Therefore the proposal would not conflict with LP Policy S9 criteria ii) and iv).
114. The bus service near Clare Hall is used by residents at the appeal site and access can be gained using footpath 25<sup>65</sup>.
115. The nearest facilities are located at South Mimms Service station (about 2kms), with the nearest range of shops being approximately three kilometres from the site in the outskirts of Borehamwood. A more extensive choice of shops is also available in the centre of Potters Bar and Borehamwood.
116. It was acknowledged that most of the journeys from the site are by motorised transport. However, because it is a family community at the appeal site, no one would consider going to the shops without asking other people if they needed anything and normally at least two people would go. Therefore, efficient use of transport is made. The location of the site was not found to be unacceptable in the Ridge 1 appeal.

### **Highway safety**

#### *Sight lines*

117. The new access from Summerswood Lane would improve highway safety. A similar proposal for the access was considered in relation to the Ridge 1 appeal, at which time it was concluded that it would not harm highway safety or require tree removal to the extent that the rural character of the road would be unacceptably affected. There is no reason for a different conclusion to be reached in relation to this proposal. It was acknowledged at the inquiry that should 2.4m x 120m sight-lines be required these could not be achieved over land within the ownership of the appellants.

### **Other Matters**

#### *Human Rights*

118. Article 8 of the European Convention of Human Rights (ECHR) provides that everyone has the right to respect for his private and family life, his home and his correspondence. There should be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interest of, amongst other things, the economic well being of the country.
119. Reference is made to *Buckley v UK (App No. 20348/92) 23 EHRR 101*, but this case is different in that the appellants have nowhere that they can go if prevented from living on their own land. The education of the children would also be severely disrupted and their long-term health would be affected and other residents' health

<sup>65</sup> Doc 14C

problems would not be addressed. Site provision is inadequate and the Criminal Justice and Public Order Act has given local authorities new powers to prevent unauthorised camping, enabling eviction of persons trespassing on land with common purpose of residing there.

120. The only alternative that the authority could offer would be a house or flat, which would interfere with gypsies' right to a traditional lifestyle. Eviction would amount to interference by a public authority. Deciding whether interference is necessary in a democratic society necessarily implies that the interference corresponds to a pressing social need and that it is proportionate to the aim pursued. Interference here would not be necessary, as it is not justified by any pressing social need. It is considered that the social needs of the appellants are far greater.
121. Eviction, which would be inevitable should the appeal be dismissed, would cause a return to indiscriminate camping and possibly trespass. This would be harmful to the health and education of the appellants and might delay development or deter investment in the land that they were being forced to illegally occupy, and would therefore also be disadvantageous to the wider community. The right to a secure home and the welfare of children and access to basic health care must carry greater weight than the harm to the Green Belt, which in any case would be mitigated by landscaping.
122. When the site was purchased, although a solicitor was used, the appellants were not made aware of the planning history of the appeal site. When evidence was produced in relation to a land charge search, Mr Egan said that the vendor had told him that there had been a hearing in relation to the site but that the inspector had said that if there had been sufficient screening it would have been approved.

#### *Previous appeal decisions*

123. The personal circumstances of the appellants have changed, in relation to need, health and education since the previous appeal at this site in 2001 (Pylon 1). The changes are sufficient to warrant a different decision being reached in relation to this case, particularly as with that case the inspector had wrongly concluded that the appeal site was in a Landscape Conservation Area. Highway safety and location in relation to services was not criticised. It is also relevant that gypsy status and the need for sites generally was not challenged. There has been no significant changes to warrant a different conclusion.

#### *Precedent*

124. If the appeal were to be allowed it would be on the basis of the very special circumstances of these appellants in relation to this particular site. Therefore, on the basis that each decision is made on its own merits, it is not considered that the proposal could be used as a precedent for other development on adjacent sites.

#### **Conclusion**

125. It is accepted that the proposal is inappropriate development, but the harm has to be assessed in the light that any gypsy site in the locality would be likely be in the Green Belt and that the site can be screened to some extent with new landscaping. There would be no harm in relation to highway safety or the location of the site as was found on the previous appeal for this site. The harm identified is clearly outweighed by the lack of alternative sites and the health and education needs of the

appellants which have changed since the last appeal at this site, tipping the balance in favour of the appellants.

### Interested Parties

126. **Miss Gammell** – Mary is happy to be staying on one site because it enables her to go to the local school on a regular basis, which means she does not struggle to keep up with the work. She has been able to make friends with other children at the school and can now read and write. If her family were continually forced to move on she would not get a regular education. It is also very difficult and unsettling, particularly when people come and bang on the sides of the caravan early in the morning and then being forced to pack up and move on.
127. **Mr Puxon of the Gypsy Council** – The Gypsy Council is a lobbying group, which has as one of its aims to campaign to make it a local authority requirement to provide gypsy sites, or to make it easier to provide private sites, which are generally better managed. This is necessary because since this duty was removed from local authorities the number of new sites provided has been negligible. Gypsies are endeavouring to solve their own site problems, with over 200 applications/appeals having been made. But it is rare for these applications to be approved and even Bedfordshire County Council spent £½ million in an attempt to provide a licensed site, which illustrates the difficulties involved.
128. Mr Puxon has been involved with Hertfordshire since the 1960s when the council provided sites prior to the duty being removed in 1994. There are about 100 authorised sites in the county and 126 families on the waiting list. There are only one or two vacancies at the Three Cherry Trees site and these are not appropriate for the appellants.
129. Mr Puxon is a friend of Mr Egan. He also sits on the Gypsy Council. His views are those of the Gypsy Council, who asked him to attend the inquiry. Mr Puxon has known the Egan clan/community for over 25 years and considers that it is ridiculous to question their traveller status. The support of these families and opportunities for education is very important.
130. Having a stable base is also important in relation to travellers' health. A study has been undertaken in Essex at Dale Farm. Part of this site has planning permission and part is occupied unlawfully. The study is of the people that have arrived more recently although it included part of the settled site. This showed that travellers' health is significantly poorer than the settled community<sup>66</sup>.
131. **Mr J Clappison MP** has been the elected member for Hertsmere since 1992, when defending the Green Belt was an election issue. The appeal site, although not in a Special Landscape Area, is in attractive countryside where the proposal would be a serious intrusion and out of keeping with its rural character. It is a concern that the use of the site has been occurring for several years and is developing an air of permanence despite similar inquiries in the past. He has received representations from the Parish Council and community members and shares their concerns that this site is intrusive in the Green Belt and is a very inappropriate location. It is accepted that the requirements of gypsies need to be met and that there will always be a

<sup>66</sup> Doc 15 Sastimos Health Care

'tension' been a gypsy site and the Green Belt, but he considers that this location is the worst place to locate one in the constituency.

132. **Mr P Taylor<sup>67</sup> representing Ridge Parish Council** – Their case reflects that of Hertsmere District Council, particularly in relation to the importance of the open land to the purposes of the Green Belt. The proposal would add approximately 30% to the population of the existing village. He emphasised the visibility of the existing caravans from all locations around the application site. This would be substantially increased were the appeal to be allowed, as the caravans would be spread over a much greater area, with fences around the site and between the individual plots. The appeal site is an inappropriate location surrounded by high quality farmland, with minimal facilities in Ridge and access along a narrow country lane with no street lights or footpaths. The land being at a valley bottom is poorly drained and unhealthy, requiring extensive hardcore to be provided.
133. Mr Taylor attended the planning committee when the original planning application was refused (that related to Pylon 1 appeal); Mr Egan was also there. Even though the planning application was refused, caravans were moved on to the application site following the council's decision. At this time there was no educational need or medical arrangements; these have only come about because of the occupation of the site, taking advantage of the planning system, which is intolerable.
134. Education and health needs are not reliant upon being at this site, as occupiers could attend the same schools<sup>68</sup> or hospitals/doctors from many other locations still travelling similar distances as now, and areas further away from this locality have schools/hospitals that could be attended. Mr Egan's business seems to be well established financially and the evidence presented does not show that the failure to buy other sites is because of cost.
135. The site within the Green Belt, on the edge of a Landscape Conservation Area and close to the village conservation area, is patently unsuitable for the present and proposed use and there are no very special circumstances to overrule this. Other sites referred to in the appeal are very different from this site, with different circumstances of the applicants.
136. The contests that local residents support the proposal and a 35 signature petition was produced. Over the last three years there has been continued local support to the Parish Council's opposition to the site use. At the time of the last appeal there was a 38 signature petition and that from a village with 35 houses. The site has been used inappropriately for over three years and it is time for it to be stopped<sup>69</sup>.
137. **Mr I Dempster** expressed concern about this appeal setting a precedent for further caravans on the adjacent land.

#### **Written Representations**

138. **Ms C Poolman** supports the appellants on grounds of the children's education and for health reasons. The appellants are known through duties associated with Neighbourhood Watch and she is always made welcome at the site. There have never

<sup>67</sup> Doc 33 Mr P Taylor's statement

<sup>68</sup> Doc 29

<sup>69</sup> Doc 19

been any complaints about the site, which is kept tidy. She and members of the Neighbourhood Watch want them to stay at the site<sup>70</sup>.

139. **David Banks**, ex-councillor and mayor of Hertsmere supports the appellants because it is his opinion that the site is discreet and not an eyesore, the local community support and accept the appellants in the vicinity and for health and education reasons<sup>71</sup>.
140. **Hertfordshire County Council's** principal land agent objects to the proposal, noting that the council own properties and land in the area, including Crossoaks Farm and Summerswood Farm. The objection relates to harm to the Green Belt, visual intrusion and traffic generation<sup>72</sup>.
141. Letters providing references for the appellants were sent from The Catholic Parish of **Our Lady & St Vincent** Potter Bar, **DL Travel** and **The Clarendon Filling Station Ltd**<sup>73</sup>.

### Conditions

142. The council's suggested conditions are contained in Document 22 and my recommended conditions are attached as annex A to this report. The following comments relate to the council's numbering.
143. Having regard to the nature of the case, it is reasonable to impose conditions ensuring gypsy status and that the use is specifically for the appellants' benefit. I consider that it is also reasonable that dependents of those gypsies at the site should also be included even if for the purposes of planning they are not technically defined as gypsies (1 and 2).
144. Part of the site is used at present, so where relevant conditions have been worded to ensure that required actions are completed within an overall time scale and that use of the remaining part of the site does not occur until specific actions have been completed. This is necessary to ensure that conditions are enforceable.
145. It is necessary to require details of the proposed site layout and landscaping, including proposed perimeter and internal boundaries (3, 10, 11 and 12), to be submitted to and approved by the local planning authority, and to ensure that the number of caravans (8) at the site is controlled in the interests of the visual amenity of the area and Green Belt. However, a requirement to control the number of vehicles on the site (8) would, in my opinion, be unenforceable. However, it is also reasonable to impose a condition preventing any commercial use of the appeal site or stationing of large vehicles at the site (9). A limit of 1.5 tonnes is reasonable and would not prevent Transit vans used by the appellants.
146. I consider that the arrangement of the boundary, including gates and internal site divisions, is very important in relation to the character of the proposal and impact that it might have on the character and appearance of the area (7). While I am satisfied that gates could be positioned a sufficient distance from the road to maintain highway safety, they would have a significant impact on the character and appearance of the area. It is therefore reasonable to impose a condition removing

<sup>70</sup> Doc 10

<sup>71</sup> Doc 10

<sup>72</sup> Doc 21

<sup>73</sup> Doc 30

permitted development rights. I acknowledge that a fence or other boundary could be erected around the site if in agricultural use, but consider that without the proposed use this would be highly unlikely to occur.

147. Details of the proposed access, parking/turning arrangements and closing of the site from the existing access are required in order to maintain highway safety (4 and 5). A condition relating to drainage is required in the interests of the amenity of the environment (6). Given the inaccuracy of the original location plan I consider that it is necessary to have a condition specifically identifying the site to which the permission relates (13).
148. In relation to matters proposed by third parties at the inquiry, I do not consider that it is reasonable or necessary to impose conditions relating to matters covered by other legislation. I also consider that it would be unreasonable to impose conditions related to keeping dogs on leads or control of ball games. I am satisfied that there exists within planning legislation adequate means to deal with non-compliance of conditions.

### Inspector's conclusions

[In this section the numbers in parentheses [n] refer to the preceding paragraphs.]

#### Main Considerations

149. In my opinion, the main considerations in this case are as follows.

- Whether the appellants have gypsy status;
- The effect of the proposal on the Green Belt and whether there are any very special circumstances sufficient to overcome the presumption against inappropriate development in the Green Belt and any other harm identified;
- The effect of the proposal on the character and appearance of the surrounding area;
- The effect of the proposal on highway safety;
- The effect of the site's location in relation to services and facilities;
- The need for the site in relation to existing site provision;
- The effect of the appellants' personal circumstances, including site, health and education needs.

#### Gypsy status

150. The definition of a gypsy is set out in section 24(8) of the Caravan Sites and the Control of Development Act 1960 (as amended). The Court of Appeal judgement in *R v South Hams DC ex.p Gibb [1995] OB158* defined gypsies as meaning persons who wandered or travelled for the purpose of making or seeking a livelihood. The case of *Clarke-Gowan v SoSTLGR [2000] EWHC 1284*, effectively found that the pattern of travelling should be distinguishable from that which might normally be associated with a particular trade.

151. In *Wrexham CBC v National Assembly of Wales and Berry [2003] EWCA Civ 835* it was considered that whether applicants for planning permission are of a 'nomadic way of life' as a matter of planning law and policy is a functional test to be applied to their way of life at the time of determination. The fact that there is a permanent base from which to travel does not necessarily remove nomadic status. Temporary confinement to the personal base for reasons such as health or possibly the interests of children may not do so either, depending on the reasons and the length of time, past and projected, of the abeyance of the travelling life. The notion that other reasons need to be taken into account is supported by the judgement in *Basildon DC v First Secretary of State, Cooper and Cooper [2003] EWHC 2621 Admin*. In *Wrexham* it was also found that if retired permanently from travelling for whatever reason there is no longer a 'nomadic way of life' and this aspect was not disagreed with in *Basildon DC v FSS, Cooper*. However, the *Wrexham* judgement is the subject of a challenge in the courts and therefore the situation may have changed at the time the First Secretary of State makes his decision. However, I do not speculate on that matter.

#### Background

152. The appellants come from a traditional travelling background [69]. Mr Puxon, a member of the Gypsy Council, has known the Egan's clan/community for over 25

years and considers it ridiculous to question the traveller status of the appellants [129]. Prior to coming to the site the appellants travelled widely in association with work [69]. At the previous appeal at Ridge 1 some of the appellants' backgrounds and pattern of travelling were acknowledged and gypsy status was accepted. All the appellants are from the same family and endeavour to travel together. I consider that all the appellants come from a traditional travelling family and prior to occupying the appeal site followed a nomadic way of life.

*Present pattern of work/travelling*

153. In relation to this it is important that the appellants came to the appeal site because of the difficulties in finding temporary sites, and but for this would wish to travel more often [88, 94]. In addition, living in a house or other similar 'fixed' accommodation would be totally unacceptable to the appellants' way of life.
154. Mr Egan's travelling pattern has changed since coming to the appeal site. While Mr Egan travels where work takes him, which has necessitated a number of weeks away, including to France, I consider that the pattern presented shows that the extent of travelling is reducing [72] but I accept that being settled has helped Mr Egan retain jobs. Mr Egan has a serviced office where he collects post regularly and has adverts in local directories [71]. Mr Egan still travels in relation to work, sometimes being away from home for up to two weeks. However, when asked why it would not be possible to reside at Dale with his brother, who is a partner in the business, Mr Egan explained that this was too far away from his work and would not enable him to organise the work.
155. To my mind, this does not indicate the flexibility that I would associate with a nomadic way of life associated with work. The travelling associated with work such as in Chelsea and London would, in my opinion, be little different from that of many building workers who live away from home when their work dictates, but he has worked away for longer periods [72]. Mr Egan travels to attend traditional gypsy fairs with his family, using specially converted touring caravans. He acknowledged that these are more of a social occasion and that he does not deal in horses and antiques at these fairs. However, I attach little weight to the fact that Mr Egan's family do not accompany him on his work travels, as this is related to ensuring that children are able to maintain regular attendance at school.
156. I consider that being at the appeal site has had a considerable effect on Mr Egan's gypsy way of life. In part this will have been because of the difficulty in finding sites [94, 95], education of children and health problems of other family members. Taking all these factors into consideration, it is my opinion that at present, although marginal, a nomadic way of life is still maintained.
157. Little information or evidence was presented in relation to other men at the appeal site. The appellants were unable to confirm the numbers of adults at the appeal site. Other men are mainly employed in relation to three piece suites, which they travel around the country selling, living in specially converted caravans. They also travel to traditional gypsy fairs. This may well indicate a nomadic way of life, but on the evidence presented I do not consider this to be the case.
158. Of the twelve families living at the appeal site, nine are single parent families [103]. No information is given in relation to the travelling habits of these families, but given the health and education needs, travelling for work is unlikely. However, in respect

of these single parent families, substantial weight must be given to children's needs of a stable base for schooling and I therefore conclude that a temporary loss of nomadic status for this reason need not show a permanent loss of gypsy status.

159. At the inquiry it was confirmed that Ann Egan, Margaret Quilligan, Michael Slattery and Catherine Flynn cannot travel again. In the case of Ann Egan and Margaret Quilligan this is for health reasons [109], but no specific reason was given in relation to Michael Slattery and Catherine Flynn, although both have health problems identified [107 & 108]. There is no intention of these four travelling again, unless forced to move off this site. These four have given up their nomadic way of life and therefore in accordance with *Wrexham CBC v NAW and Berry* have given up their gypsy status as defined for the purposes of planning.
160. I acknowledge that it is a gypsy tradition to travel in family groups. However, this must be balanced against the matter that prior to coming to the site, travelling was not always in a group of 12 and that at least one of the families came to the site much later [96]. Nevertheless, in my view, some weight should be attached to this tradition, and therefore the fact that a number of this group have lost their gypsy status for planning purposes should not itself weigh heavily against the others. But the weight given to the health problems of these individuals needs to be considered carefully in relation to the extent of the proposal for twelve pitches.
161. In addition, in my view, should this appeal be dismissed, the likely outcome for the appellants would be to resume travelling and a nomadic habit. Therefore, even if the First Secretary of State were to find that the appellants had at present lost their gypsy status, the dismissal of this appeal would be likely to force them to return to a traditional nomadic lifestyle.

#### *Conclusion on gypsy status*

162. I acknowledge that the extent of the gypsy way of life has diminished considerably since residing at the appeal site, that Mr Egan's travels beyond what might generally be usual for people employed in the building trade is not substantial and evidence in relations to others' travel/work pattern is limited and that four of those at the site have lost their gypsy status. However, also relevant is the appellants' historical travel pattern and their wishes not to live in a 'normal dwelling' and wish to continue travelling (which would be the likely outcome of dismissal of the appeal). In addition, the education of a significant number of children and health problems are both major factors in the present change in travel/work patterns. I therefore consider, weighing these matters up, as a matter of fact and degree, gypsy status should be considered in relation to the proposal.

#### **Green Belt**

##### *Inappropriate development*

163. It is common ground that the use of the appeal site as a gypsy caravan site would be inappropriate development within the Green Belt in terms of SP Policy 5 and LP Policy C1, as well as national policy guidance within PPG2 and Circular 1/94. Paragraph 3.2 of PPG 2 notes that inappropriate development is, by definition, harmful to the Green Belt.

### *Openness*

164. The caravans using the site and formation of fences and hardstandings associated with the use of this land for gypsy caravans has a substantial and harmful impact on the openness of the Green Belt. The proposal that would allow twelve mobile homes and twelve caravans would, to some degree, be likely to increase the impact of these structures in relation to the present situation where touring caravans predominate [14], and by spreading these over a wider area. This would make them even more prominent, because the site is less well screened further away from the road. In my opinion, the openness of the Green Belt, its most important attribute, would be very seriously harmed by this proposal.

### *Purposes of Green Belt*

165. The appeal site is within a relatively narrow part of the Green Belt separating Borehamwood, Shenley, Potters Bar and Ridge. The Green Belt in this area performs the important function of checking unrestricted sprawl of large built-up areas, preventing neighbouring towns from merging into one another. It assists safeguarding the countryside from encroachment and helps preserve the setting and special character of Ridge. In my view, the present use of the appeal site has an unacceptable urbanising effect on this land. The proposal would cause further harm, spreading caravans, mobile homes and hardstandings over a significantly larger area. I consider that the use of the appeal site for gypsy caravans seriously harms important purposes of the Green Belt. In particular, because of the narrow nature of the Green Belt in this location, I consider this is an area that is very vulnerable to the pressures of piecemeal development. The proposed use would cause harm by fragmentation and sprawl of development into the open countryside.

### *Visual amenity of Green Belt*

166. The appeal site is located in a shallow valley and is clearly visible from the rising ground beyond, including from the village of Ridge and nearby public footpath [36]. Caravans located on the site are clearly visible from the surrounding area, causing harm to the visual amenity of the Green Belt.

### *Conclusion of Green Belt*

167. I conclude that the proposal, in addition, to harm caused by inappropriateness, would cause substantial harm to the openness, purposes and visual amenity of the Green Belt. It would conflict with SP Policy 5 and LP Policies C1, C15 and H10.

168. Before I look at whether there are any very special circumstances to overcome this harm, I consider whether there is any other harm associated with the appeal proposal that also needs to be taken into account.

### **Character and appearance**

#### *Conservation Area*

169. In 1992 the council adopted non-statutory guidance notes for the Ridge Conservation Area [53]. These were the subject of public consultation and I attach weight to them.

170. I consider that the special architectural and historic interest of the conservation area relates, amongst other things, to the historic development of the village and farming

has been part and parcel of this. This, in my view, includes the historical relationship with the surrounding fields [53].

171. There are many views from the village to the countryside and vice versa, so the visual appearance of the conservation area relative to the countryside is important. There are many houses and a public house within the conservation area that have direct views towards the appeal site, and the village can be seen with the appeal site in the foreground from Summerswood Lane, the land to the south of the appeal site and from footpath 25. The existing caravans at the appeal site are clearly visible in many of these views.

#### *Countryside*

172. While the land to the east of Summerswood Lane is not in the Landscape Conservation Area, it is nonetheless in a very attractive rural location whose character results from the openness of its farmland which is formed by fields, hedges, trees and a number of sporadically located rural buildings. This is enhanced by the topography of the area, which allows distant views of the landscape from higher ground.
173. In my opinion, the caravans and mobile homes, because of their form and material, are incongruous and obtrusive features, unacceptable in this countryside setting. The urbanising effect of hardstandings and subdivision of the appeal site would reinforce this harm. The caravans in their existing location cause substantial harm to the rural character and appearance of the countryside and their visibility would be considerably increased if spread over the whole of the appeal site. In addition, the loss of trees at the proposed entrance would open up the site from Summerswood Lane, so the view from this location would be made considerably worse than at present.

#### *Conclusion on countryside and conservation area*

174. I conclude that the proposal would cause substantial and unacceptable harm to the character and appearance of the countryside. The proposal would be readily apparent in views to and from the Ridge Conservation Area. A typical feature of the conservation area is its rural setting and I do not consider that the character or appearance of the conservation area would be preserved or enhanced by the development, which would adversely affect its setting.

#### *Effect of landscaping*

175. The appellants propose landscaping both within and at the edge of the appeal site. It is suggested that approximately 2m high boarded fences should be provided at the perimeter, with some fences internally to divide individual plots, in addition to soft landscaping. In my opinion, providing a timber fence around the perimeter of the site would have a substantial and unacceptable urbanising effect, and would not provide full screening to the caravans, which would be significantly taller than the fence and also readily visible from the higher ground around the site. However, while I consider that fencing would be unacceptable, the type of landscaping and boundary treatment could be controlled by conditions.
176. Nevertheless, even if landscaping sympathetic to the countryside were proposed, it would be likely to take a significant time to grow, and would not, in any event, fully screen the appeal site [37, 79], because of its location in a valley. In my opinion,

landscaping would not be sufficient to mitigate the substantial harm of the present arrangement or of the proposed use.

177. I acknowledge that a gypsy site anywhere in the Green Belt would inevitably conflict to some extent with criterion (iii) of LP Policy S9, but in my opinion the location of this site is wholly unacceptable because of the substantial harm caused and I consider that other sites are likely to be available within the Green Belt that would cause significantly less harm, such as that recently identified at The Pylon site [45, 131].
178. I conclude that the proposal would conflict with the aims and objectives of SP Policy 12 and LP Policies H10, C15 and S9.

### **Highway safety**

179. While the speed limit for the road is 60mph, I accept, as put forward by the council, that sight line considerations should be based on the 85<sup>th</sup> percentile speed of 40mph as this is likely to be more representative of actual speeds of traffic using the road. Therefore the recommended sight line in each direction from the proposed entrance should be 2.4m x 120m [55]. The appellants submit no evidence in relation to what sight lines would be achievable. Drawings submitted by the council [55] indicate that sight lines would pass over land outside the appellants' ownership and therefore would not be achievable.
180. At the proposed access location the highway land extends about 2m in front of the boundary of the appeal site, so the 2.4m 'X' position would only be set back into the appeal site by about 0.4m. From what I saw on site, and given the short set back behind highway land, I am satisfied that reasonable sight lines which pass through the corners of the land in the ownership of the appellants from the 2.4m 'X' position would achieve reasonable visibility in each direction. The road outside the appeal site is straight for a considerable distance. Therefore, motorists using the road would be able to clearly see vehicles emerging from the site from some distance.
181. I acknowledge that the proposal would require removal of trees and vegetation forming the front boundary, particularly at the access position and along part of the length of the sight lines passing over the appellants' land. The effect of this is considered in relation to character and appearance.
182. I conclude that the proposed access would accord with the aims and objectives of LP Policy M9.

### **Location of services**

183. There are limited facilities in Ridge [50], and none that would meet day to day needs. There is a bus stop at the end of the village that is sometimes used by the appellants, but this is a considerable distance from the site and access is along the road, which has no footpath, or is along an unmade footpath. Neither route has street lighting. In my view, given the distance and nature of the routes to the bus stop, use of the bus would not be an attractive proposition, particularly when dark or in wet weather.
184. Although there are some facilities at the South Mimms service area, the nearest range of shops is in the outskirts of Borehamwood about 3 kms away, again accessed along country lanes. This is too far to walk, but would be within cycling distance. Schools, hospitals and doctors' surgeries are all significant distances from the appeal site, and children have a taxi or minibus to get them to and from school [98].

185. Apart from cycling to shops in Borehamwood, access to facilities would be difficult by means other than motorised transport. The appellants accepted at the inquiry that most journeys were motorised. However, I acknowledge that because of the nature of the community, sharing of transport occurs. The situation for residents at the appeal site is similar to the situation for residents in the village of Ridge. Nevertheless, dwellings have been there for some time, and it would be unacceptable to justify a new proposal on the basis of previous development where policies and circumstances have changed.
186. The appeal site is not located close to the major road network, but the distance from the site to South Mimms where the M25 is accessible is not substantial and although access is via country lanes these are not narrow. While the proposal would increase the traffic using nearby roads, in my opinion this would not be substantial in relation to existing use.
187. In my opinion, harm caused by the distance to the major road network adds little weight to this issue, but because of the location of the site in relation to services and facilities, I consider that the proposal would unacceptably conflict with the aims of PPG 13 to reduce the need to travel, especially by private car. It would therefore also conflict with LP Policy S9.

#### **Very special circumstances**

188. It is for the appellants to show why permission should be granted. Very Special Circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and other harm identified above, is clearly outweighed by other considerations and I consider these matters below.

#### ***Existing site provision general need***

##### *Policy*

189. SP Policy 12 is a general policy noting that provision will be made for gypsy caravan sites providing that they are in satisfactory locations. No quantitative assessment of need is referred to or required by the policy.
190. It is common ground that, following the SoS decisions in relation to The Pylon site and Ridge 2, a quantitative assessment of need is expected by PPG 3 and C1/94. In those cases, because of the lack of such an assessment, criticism was levelled at SP Policy 12 and LP Policy S9, which at that time was an emerging policy. I accept that when preparing LP Policy S9, account was taken of figures that were available at the time and consultation took place with relevant departments and that there is no generally agreed approach as to the form of these assessments or of the information to be used [43].
191. In addition, in The Pylon appeal it was recognised that all the countryside in Hertsmere and much of the countryside in the south of Hertfordshire is within the Green Belt and that the likely location of a gypsy site would be within these areas. Therefore, it was highly likely that any proposed gypsy caravan site would inevitably conflict to some extent with some of the criteria of the criteria based policy. In my opinion, this would be the case in relation to this proposal.
192. No changes have been made prior to adoption of this policy and therefore, even though now adopted, the weight to be accorded to it should be limited. However, in

my view, that does not in itself mean that gypsies should be allowed to remain on unacceptable unauthorised sites, or that the whole of LP Policy S9 is on no account, but limits the weight that can be given to aspects of the policy. This was the approach taken by the SoS in The Pylon decision, where a balancing exercise was carried out.

#### *Provision*

193. Interpretation of the biannual count is not straightforward, there being various factors that can distort the meaning, including apparent site availability caused when occupiers are travelling or where pitches which allow a single family to have two caravans only have one caravan located on them. Nevertheless, the gypsy counts show a clear trend of increasing numbers of gypsy caravans in Hertfordshire from 302 in July 2000 to 402 in July 2002. In Hertsmere, over the same period, the increase has been from 43 to 93. A similar trend is shown in relation to the count of families and to the numbers of gypsies on unauthorised sites in Hertfordshire generally.
194. However, in Hertsmere there was a drop of caravans on unauthorised sites from 31 to 22 between January 2002 and July 2002. This is most likely directly related to the grant of permission for private sites at The Pylon site and perhaps One Acre, although I note that the decision to grant permission at One Acre has now been quashed. The 22 caravans on unauthorised sites would include those at the appeal site.
195. 'Hotline' figures [87, 88] also indicate a general need for sites, but these could relate to travellers passing through the area and count the same family more than once. There is a waiting list in Hertfordshire with about 100 families, but this could include families wishing to move to a preferred site. It is acknowledged that there are some pitches available at the Three Cherry Trees site, but because of conflict between groups this would not be suitable for the appellants. In addition, the report by Pat Niner 'The Provision and Condition of Local Authority Gypsy/Traveller Sites in England' indicates that nationally there will be a need over the next five years of between 1000 and 2000 residential pitches and 2000 and 2500 transit pitches [88]. The council indicates that there have been a few pitches available at South Mimms, but these are transit pitches with a maximum stay of three months.
196. Taken together these factors indicate, in my view, a need for site provision generally and in the Hertsmere area. This was the conclusion in relation to previous appeals at Ridge 1, Ridge 2 and The Pylon site. The approval of The Pylon site will have eased the situation by providing pitches for 6 families, but I do not consider that this would satisfy the need shown in the area and it was a personal permission. I therefore conclude that there is a need for site provision in the area and this adds weight to the appellants' case.

#### **Appellants' needs**

##### *Site/location*

197. Prior to coming to the appeal site, the appellants travelled widely to places that included Grays and Thurrock, but in the main travelling occurred in and around Hertfordshire [69]. Hertfordshire and Hertsmere are not the only areas resorted to and resided in by the appellants, but it was an area that they regularly visited and therefore support for their need for a site in the area is gained from SP Policy 12.

198. The appellants came to the appeal site because of the difficulties in finding temporary sites, and living in a house or other similar 'fixed' accommodation would be totally unacceptable to their way of life.
199. The council acknowledges that, while it may be possible to find land suitable for a gypsy site in an urban area, the most likely location would be within the countryside and therefore within the Green Belt. However, clearly there are locations within the Green Belt that would be likely to be more suitable than others [45, 131]. This is evidenced by a recent approval for gypsy sites within the Green Belt at The Pylon site.
200. Mr Egan has a considerable amount of work in the area. However, his business is carried out with his brother who lives a considerable distance away. In my opinion, even taking into account the different responsibilities of Mr Egan and his brother does not indicate that the location of the site has a big influence on the ability to work in the area and is not sufficient reason in itself for the appellants to be at this specific site.
201. The appellants and their agent have made efforts to try to find alternative sites [95]. However, the appellants acknowledge that their efforts have been mainly directed to finding a site large enough to accommodate twelve families. Whilst I acknowledge that travelling in a family group is part of the families' tradition, this has in the past been flexible, with members of the group not always being together. Clearly this is not always possible, particularly as it was noted that the Sheridan Clan is very large [96]. In my view, the need to accommodate the whole group would severely and unreasonably limit the possibilities of finding a suitable site.
202. I acknowledge that sites in urban areas are likely to be difficult to find and probably not affordable by the appellants [90]. However, one of the members of the group has a reasonable income [71] and this combined with others at the site should enable the purchase of other land. Whist I acknowledge that there are various difficulties with those parcels of land, I do not consider that the evidence presented shows that an extensive search for other land has been undertaken sufficient to conclude that there would be no other land in a reasonable location that would be suitable either to accommodate some or all of the appellants.
203. I also consider that, as many of the gypsy sites in Hertfordshire are controlled by the local authority, if concerted efforts were being made to find alternative sites, the appellants would have placed their names on the waiting list for sites each year [97]. Some sites do become available and while those at the South Mimms transit site would be of limited duration, others would not. These may not be sufficient to take the whole group, but may help meet the needs of those with particular difficulties in relation to ability to travel at present.
204. It seems to me that, apart from the appellants purchase and occupation of the appeal site, the specific reasons why it should be used are tenuous, and are matters that would be likely to be found in relation to many other parcels of land. In contrast, there are strong reasons why the appeal site should not be used as proposed. However, land with planning permission is unlikely to be found and making enquires and going through the planning process, even if suitable land were available, would still take a great deal of time. I also accept that it is likely that some time would be required on the council's waiting list before pitches are found. I therefore consider it

is likely that should the appeal be dismissed, the appellants would be forced back on to the road and therefore the matter of need weighs in the appellants' favour.

#### *Education*

205. The evidence presented clearly indicates that the children of appropriate age regularly attend a number of local schools [98] and that they are gaining significant benefit because of the regular attendance [100, 126]. However, the schools attended are not close to the appeal site and transport has to be provided to get them to and from school. Therefore, other locations that would be the same distance or less from these schools, which would include a large geographical area, would be no worse than the appeal site in this respect.
206. Even if suitable land could not be found within a reasonable distance of these schools, it is highly likely that other schools would be within a similar travelling distance and I consider that most schools would be able to provide suitable education for these children [101, 134]. However, if the appellants were required to leave without having another residential site to go to, it is likely that they would then be forced to move on a regular basis. This probably would involve travelling outside the area of the schools now attended and from the catchment area of one school to another. Given the lack of availability of sites, I consider that this is a possible eventual outcome if the appeal is dismissed. In these circumstances, I am sure that attendance at school would drop, even though I acknowledge that the appropriate authorities make provision for children in these circumstances [134].
207. Overall, I consider that the educational needs of children residing at the appeal site adds some weight to the appellants' case.

#### *Health*

208. I acknowledge the health problems suffered by residents at the appeal site and that these vary in severity [47, 104]. However, the appeal site is not close to the hospital or other medical facilities [47] and other locations that would be the same distance or less from these, which would include a large geographical area, would not necessarily be worse than the appeal site in this respect. Even if forced to move outside the area, other hospitals/doctors would be able to provide medical attention, although I acknowledge that regular attendance allows familiarity with the patients' condition, a benefit which would be likely to be lost through regular travelling.
209. Travelling around does not preclude access to medical services as demonstrated in this case by Mrs Ann Egan, who prior to coming to the appeal site was registered with a GP [110]. This must to some extent be a part of a travelling life style, even when this is only for part of the year and travelling from a permanent base. Therefore, to my mind this is not an exceptional situation.
210. Mr Puxon presented evidence relating to the particular health problems of gypsies at Dale [127], which has some authorised sites and some unauthorised sites. This and other evidence does not indicate that travelling in itself necessarily results in harm to the health of the travellers, and in relation to this site Mr Egan confirmed and evidence notes that the health of some of the appellants has in fact become significantly worse since residing at the appeal site [110]. However, there is also contradictory evidence provided by the appellants from Hertsmere NHS which considers that the health of the appellants has improved since being at the appeal site [104].

211. Be that as it may, I have no doubt that travelling would be very difficult and unacceptable for those with severe medical conditions such as Mrs Ann Egan and Mrs Margaret Quilligan, although others will improve, such as Mr William (Patrick) Egan, whose injuries resulting from air rifle pellets are likely to get better.
212. Health problems are significant matters weighing in favour of the appellants, but I consider that those with severe health problems would not justify the extensive use of the site proposed and the substantial harm associated with it. This and educational matters are tempered by the fact that the site was occupied knowing that planning permission to stay there had been refused (see human rights section below) and the appellants did not register with the local authority for a place on a council site. While I have accepted that it would be difficult to find a site for twelve families, vacancies for one or two pitches become available [40] and this may be sufficient to accommodate the needs of those members who have the most severe health problems. Moreover, one of the reasons for rejecting other sites investigated was because of their size, which although not acceptable because they would not accommodate the whole group, may provide accommodation for part of it.

#### ***Conclusion of very special circumstances***

213. While I have attached weight to the difficulties in obtaining alternative sites, health and education needs of the appellants and others living at the appeal site, I conclude that none of the above considerations either individually or in combination amount to very special circumstances, sufficient to overcome the presumption against inappropriate development in the Green Belt and the substantial and unacceptable harm identified to the openness, purposes and amenity of the Green Belt and the character and appearance of the surrounding area. The proposal would conflict with the aims and objectives of Structure Plan Policy 5, LP Policy C1 and guidance in PPG 2.

#### **Other Matters**

##### *Human Rights*

214. Article 8 of the Human Rights Act 1998 states that everyone has the right to respect for his private and family life, his home and his correspondence. This includes the right to a home and where a home has been established, albeit unlawfully, the right applies. However, if the establishment of a home in a particular place is unlawful, the position of the individual(s) objecting to an order to move is less strong. The Courts will be slow to grant protection to those who, in conscious defiance of the prohibitions of the law, establish a home on an environmentally protected site.
215. Given the planning history of the site, I am satisfied that should the appeal be refused, action would follow that would eventually result in the appellants being forced to move from their own land and that their human rights would be interfered with. However, I also consider that it is likely that any enforcement action would take into consideration the appellants' situation and impose appropriate time scales.
216. When the site was purchased a solicitor was employed to deal with the legal arrangements, and enquiries of the local authority were made that revealed the planning history of the site [122]. The appellants' recollection [122] is that this was not revealed at the time of purchase, although on presentation of this evidence, Mr Egan recalled being told something about an inspector's decision following a hearing. I would be very surprised if a solicitor did not pass on such important

information, particularly bearing in mind the proposed use of the site. In addition, a planning application was made for use of the land and the appellants' moved on to the site after this was refused [58, 133]. Therefore, I have no doubt that the appellants were aware of the planning situation prior to moving on to the appeal site, which in my opinion is material to the human rights considerations.

217. I acknowledge that there are insufficient sites available at present for the appellants to move to and that it would not be acceptable for them to live in houses or flats as this would conflict with their chosen way of life. However, I also note that the appellants have not placed themselves on the waiting lists for sites [97]. If no alternative sites are available the interference is more serious than where such accommodation is available. Overall I consider that this matter adds weight in favour of the appellants.
218. A number of those living at the site have important needs in relation to health or education. I accept that there would be likely to be difficulties and interruption in relation to these services, which might, in relation to health, place those concerned at greater risk. However, I consider that these needs could be met, albeit at different schools or medical facilities if the appellants were forced to move off the site, even if travelling away from the immediate area. Overall I consider that these matters add some weight in favour of the appellants.
219. Against this is the substantial harm that would result to the Green Belt, surrounding countryside and conservation area and that the site was occupied knowing planning permission had been refused. In my view, the harm caused far outweighs considerations relating to the lack of alternative sites, health and education. Given the difficulties in finding alternative sites and probability that the appellants would have to return to a life on the road, I have considered, although not put forward by the parties, whether a temporary permission should be imposed. However, given the substantial harm and the advice in Circular 11/95, I do not consider that in these circumstances this would be acceptable.
220. I conclude that dismissal of the appeal would result in an interference with the appellants and others living at the appeal site's home and private and family life. However, that interference must be balanced against the public interest in pursuing the legitimate aims stated in Article 8, particularly the economic well-being of the country which includes the preservation of the environment and the protection of the rights and freedoms of others. The objections to the proposal are serious ones and cannot, in my view, be overcome by granting planning permission subject to conditions.
221. In my assessment, the public interest can only be safeguarded by the refusal of permission. In all the circumstances, I consider that the refusal of planning permission is necessary in a democratic society in furtherance of the legitimate aims stated. Refusal would not place a disproportionate burden on those affected and I therefore consider that dismissal of the appeal would not result in a violation of their rights under Article 8 of the Convention.

#### *Previous appeal decisions*

222. Reference is made to the decision at The Pylon site. I have referred to the implications of this decision in relation to weight to be given to gypsy policies above. In relation to the considerations of The Pylon site, it is my opinion that the

differences between that site and the appeal site are substantial. The Pylon appeal was only for six families with twelve caravans. In that report the inspector referred to the site in the following terms: it is not easily visible from houses in Dove Lane; contains a pylon and railway ventilator and some hard standing was required in any case; public views into the site are limited essentially to those possible at the site entrance and through the hedge on Barnet Road and trees screen it from the M25; the visual impact from outside the site would be slight, especially from passing vehicles. This starkly contrasts with the appeal site which can be seen from nearby houses, is agricultural land and would have that character and appearance, but for the present use [34], is highly visible from the surroundings with little screening and would have a substantial impact from outside the site.

223. Previous inspectors' decisions at this site [62] have come to similar conclusions in relation to use of this and adjacent land as a gypsy site. I acknowledge that the inspector in relation to Ridge 1 considered the proposal on the understanding that the site was in a Landscape Conservation Area (LCA), which is not the case. I have assessed the landscape at and around the appeal site on the basis that the site is not within the LCA, and still find it to be a high quality, attractive rural landscape.

#### *Precedent*

224. Were the proposal to be allowed it would be on the basis of very special circumstances that would be particular to this site and appellants and therefore I do not consider that in itself it could set a precedent for other development, each application being considered on its own merits.
225. However, there has been a history of applications for the use of adjacent land for a gypsy site [17, 18], and on this basis it seems likely that should this appeal be allowed further applications on the adjacent land would follow. In my view, if this appeal were allowed the value of the rural character of the area would be dramatically diminished. Therefore the weight to be given to its protection in relation to future applications on adjacent land would be reduced, making it considerably less of a burden to prove very special circumstances that would outweigh harm, thus making it harder for the council to resist such applications.

#### **Conclusion**

226. The proposal would be inappropriate development in the Green Belt and would cause substantial harm to its openness, purposes and visual amenity. Notwithstanding my finding that there would not be unacceptable harm in relation to highway safety, there would be substantial harm to the character and appearance of the surrounding area. The proposal would not accord with the objective to locate development where reliance on cars would be reduced. In addition, the character and appearance of the conservation area would not be preserved or enhanced.
227. For reasons set out above, I have considered the proposal on the basis that gypsy status is appropriate and that weight should be attached in relation to the general need and to the appellants and others at the site's personal need for sites. I have also taken into account their health and educational needs and possible landscaping and conditions. However, I consider that the harm identified is so great that it clearly outweighs the appellants' personal circumstances. While I accept that human rights would be infringed, refusal would not place a disproportionate burden on those affected.

**Whether any permission granted should be subject to any conditions and, if so, the form these should take**

228. However, if the FSS takes a different view and is minded to grant permission, I include as Annex A conditions that I recommend be imposed and which I consider are necessary to achieve a satisfactory standard of development [142 - 148].

**Recommendation**

229. I recommend that planning permission be refused.



INSPECTOR

## APPEARANCES

## **FOR THE LOCAL PLANNING AUTHORITY:**

**FOR THE APPELLANTS:**

Mr D Watkinson	Of Counsel, instructed by The Community Law Partnership
He called	
Mr P Egan	The Caravan Park, Summerswood Lane, Ridge
Mr R E W Gascoigne BA	Emery Planning Partnership, 4 South Park Court,
Hons MRTPI	Hobson Street, Macclesfield, Cheshire SK11 8BS
Ms T Bailey	Head of Cranbourne Primary School, Laurel Fields, Potters Bar.
Ms S Keighley	21 Amersham Road, Little Chalfont, Bucks HP6 6SW – Traveller Education Project

**INTERESTED PERSONS:**

Miss Mary Gammell	The Caravan Site, Summerswood Lane, Ridge
Mr G Puxon	1 John Harper Street, Colchester CO1 1RP – The Gypsy Council
Mr J Clappison MP	House of Commons, London WC1A 0AA
Mr P Taylor	Mill Cottage, Ridge, EN6 3LH – Ridge Parish Council
Mr I Dempster	Chair of South Mimms and Ridge Protection Committee, The White House, South Mimms EN6 3NX

## DOCUMENTS

Document	1	List of persons present at the inquiry
	2	Notification letter
	3	There were no responses to the notification letter
	4	Council's statement
	5	Gypsy biannual count
	6	Mr Hughes' proof of evidence with appendices 1-24
	7	Mr Gasgoigne's proof of evidence with appendices 1-26
	8	Mr Egan's proof of evidence with appendices 1-4 including supplementary proof with appendices 5 and 6 handed in at the inquiry
	9	Ms Alexander's proof of evidence with appendices A1 to A12
	10	Two letters in support of the proposal – handed in by appellants
	11	Supplementary proof of evidence of Mr P Egan
	12	Opening – outline submissions for appellants
	13	Legal authorities referred to by the appellants
	14	Bundle of documents handed in by council including proposals map,

conservation area information, map of footpaths, photographs and plans illustrating sight line requirements

- 15 Sastimos Health Care – Report handed in by Mr Puxon
- 16 Counting Gypsies by Hazel Green Office of Population, Census and Surveys
- 17 The Provision and Condition of Local Authority Gypsy/Traveller Sites in England ODPM
- 18 List of persons occupying the appeal site
- 19 Bundle of letters and petition handed in by the Parish Council
- 20 Committee report relating to the Ridge Conservation Area appraisal
- 21 Letter dated 1 October 2003 from Hertfordshire C C
- 22 List of draft conditions
- 23 List of work undertaken by Mr Egan
- 24 Mr Egan's portfolio
- 25 Bus timetable and route map
- 26 Letters from Hertsmere D C dated 31 January and 31 March 2003 to Mr Murdoch
- 27 Statutory declaration and evidence statement from the previous appeal at this site TP/2000/0999
- 28 Information from Classic Paving and Landscaping Website
- 29 Letter from traveller education project 18 November 2003
- 30 References for Mr Egan
- 31 Extract from the Land Charges Register August 2000
- 32 Appeal decision APP/J0405/C/02/1093654 105 Green Acres
- 33 Statement by Mr P Taylor on behalf of Ridge Parish Council
- 34 Yellow Pages advert – International Paving
- 35 Emery Planning response to proposed conditions
- 36 The Provision and Condition on Local Authority Gypsy/Traveller Sites in England – Pat Niner
- 37 Closing submissions for the local planning authority
- 38 R v South Hams D C ex p. Gibb [1995] QB 158
- 39 South Bucks D C v SoSTLGR and Linda Porter
- 40 Clarke-Gowan v SoSTLGR [2000] EWHC 1284
- 41 Wrexham CBC v National Assembly of Wales and Berry [2003] EWCA Civ 835
- 42 Appeals ref APP/J1535/A/02/1097341, 1097755, 1102050
- 43 Basildon DC v FSS, Cooper and Cooper [2003] EWHC 2621 Admin
- 44 Notes of the appellants' closing submissions

## PLANS

Plan A Location plan

- B Block plan showing plot layout
- C Revised location plan – handed in at inquiry by the appellants
- D Emery Planning appendix 2 with correct scale of 1-1000

Annex A

Proposed conditions

- 1) The occupation of the site and caravans shall be restricted to persons defined as gypsies in Section 24(8) of the Caravan and Control of Development Act 1960 or any Act revoking or re enacting that Act and their dependents.
- 2) The use of the land and occupation of the caravans shall enure for the sole benefit of the appellants and their dependents.
- 3) Within three months of this decision a full layout scheme indicating the extent of hardstanding, position of stationed caravans, vehicle parking areas, incidental buildings and arrangement of pitches shall be submitted to and agreed in writing by the local planning authority. The scheme as approved shall be implemented within six months of this decision and thereafter development shall accord with these details.
- 4) Details and full design specifications for the new access to Summerswood Lane shall within three months of this decision be submitted to and agreed in writing by the local planning authority. These details shall include dropped kerb crossing, kerb radii, closing of the existing access from the appeal site and visibility splays extending to the corners of the appeal site and road beyond from a position 2.4m back from the edge of the carriageway. These works shall be completed in accordance with the approved details within six months of this decision. None of the unused parts of the appeal site shall be occupied, and no further works commenced until the new access has been provided.
- 5) Details of parking, loading, unloading and turning of all vehicles using the site shall within three months of this decision be submitted to and agreed in writing by the local planning authority. The works shall be completed in accordance with the approved details within six months of this decision. None of the unused parts of the appeal site shall be occupied, and no further works commenced until the site has been laid out in the way approved. Thereafter the space provided shall be maintained free of any impediment to their designed use to allow all vehicles to enter and leave the highway in forward gear.
- 6) Details of the disposal of foul and surface water shall within three months of this decision be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved within six months of this decision. None of the unused parts of the appeal site shall be occupied until the foul and surface water drainage have been installed.
- 7) No more than twenty-four caravans (of which no more than twelve shall be static caravans) shall be stationed on the appeal site at any one time.
- 8) No commercial activity shall take place on the site, including the storage of materials and stationing of vehicles over 1.5 tonnes.
- 9) Details of both hard and soft landscaping shall within three months of this decision be submitted to and approved in writing by the local planning authority. These works shall be carried out as approved within six months of this decision or in accordance with a programme to be agreed with the local planning authority. These details shall include proposed finished levels or contours; means of enclosure around and within the appeal site; hard surfacing materials; minor artefacts and structures (eg. furniture,

play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).

- 10) This permission relates solely to the land as defined on the revised location plan (Plan C)
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the appeal site.
- 12) If no scheme in accordance with the conditions above is approved within the time scales set (for whatever reason), the use of the site for gypsy caravans shall cease until such time as a scheme is approved, either by the local planning authority or by appeal, is implemented.